

2010 FEB -9 PM 3: 17

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 50 INSURANCE
PART 17 USE OF SCHOOL FACILITIES BY PRIVATE PERSONS

6.50.17.1 ISSUING AGENCY: New Mexico Public School Insurance Authority.

[6.50.17.1 NMAC - N, 7/1/2010]

[The address of the New Mexico Public School Insurance authority is 410 Old Taos Highway, Santa Fe, New Mexico 87501.]

6.50.17.2 SCOPE: This part applies to all school districts, charter schools and other educational entities authorized to participate in the authority's risk related coverages.

[6.50.17.2 NMAC - N, 7/1/2010]

6.50.17.3 STATUTORY AUTHORITY: Subsection F of Section 22-29-7, NMSA 1978 directs the authority to establish a policy to be followed by participating members relating to the use of school facilities by private persons provided that the policy relates only to liability and risk issues. This policy shall not affect the rights and responsibilities of local school boards to determine how, when and by whom school district facilities are used. The policy shall be distributed to participating members and posted upon the authority's web site.

[6.50.17.3 NMAC - N, 7/1/2010]

6.50.17.4 DURATION: Permanent.

[6.50.17.4 NMAC - N, 7/1/2010]

6.50.17.5 EFFECTIVE DATE: July 1, 2010 unless a later date is cited in the history note at the end of a section.

[6.50.17.5 NMAC - N, 7/1/2010]

6.50.17.6 OBJECTIVE: To establish a policy to be followed by participating members relating to the use of school facilities by private persons. This policy relates only to liability and risk issues.

[6.50.17.6 NMAC - N, 7/1/2010]

6.50.17.7 DEFINITIONS: [RESERVED]

[6.50.17.7 NMAC - N, 7/1/2010]

[See 6.50.1.7 NMAC for applicable definitions.]

6.50.17.8 POLICY ON USE OF SCHOOL FACILITIES BY PRIVATE PERSONS:

A. The representative of the requesting group shall contact the facilities manager or other designated school official of the desired site regarding the proposed usage within a time frame required by the site manager or official. The school or school district shall provide the requesting group with a site use agreement which sets forth the terms and conditions of use of the premises. Site use agreements shall at minimum include a copy of the school's safety rules or safety rules provided by the authority's risk management provider. The requesting group shall agree to follow the safety rules included with the site use agreement and also agree to follow the liability and risk related rules contained in Subsection G of 6.50.17.8 NMAC prior to use of the school facilities. The school facility use shall be conducted in compliance with all federal, state and municipal statutes, ordinances, rules and regulations including those with regard to discrimination. School facilities shall not be used for any unlawful purpose.

B. All groups shall also agree that the schools will not be liable for injury to the property of the group itself or participants in the group's activities resulting from their participation in the group's activities. Groups and their individual participants shall be required to give waivers of liability and releases for personal injury or property damage on forms provided by the school or the authority.

C. Liability insurance provided through the authority shall be excess over any valid and collectible insurance carried by any group permitted to use school facilities. Liability insurance provided by the authority for use of school facilities by private persons is limited to \$1,000,000 per occurrence. Schools or school districts shall not warrant the suitability of the facility or of the facility's contents for the uses intended by the requesting group.

D. Commercial groups shall provide a copy of a current business license. Commercial groups shall inform participants that the activity is not sponsored by the school whose facilities are being used.

E. All districts shall include within their site use agreement a statement clearly indicating that the approved activity sponsor must assure that activity participants and/or guests/spectators only access those site areas designated for the activity. District superintendents shall also designate in the site use agreement an individual who shall verify that all the areas utilized were properly checked and secured upon departure from the facility.

F. Schools and school districts shall make their own arrangements regarding any payments required for use of the facilities, for reimbursement for special services such as setting up tables and chairs, use of school equipment such as projectors or video equipment or abnormal wear and tear on the facilities. All fees shall be made by check or money order and shall be made payable to the school or school board. It is inappropriate for users of school facilities to pay school employees directly for services in kind or in cash.

G. In addition to the safety rules included in the site use agreement, any user of school or school district facilities must agree to the following liability and risk related rules.

- (1) The use of alcohol, illegal drugs and tobacco are prohibited on all school property at all times.
- (2) Guns are not permitted on school property except for those in the possession of authorized law enforcement personnel.
- (3) Users of the facility shall be responsible for providing security as required by the member school or school district for the type of function they have planned.
- (4) Users of swimming pool facilities must have a certified life guard on duty at all times.
- (5) For events that involve animals, including dogs, all must be leashed, penned, caged or otherwise properly contained, constrained or under supervision and control at all times. Other animals or pets are prohibited.
- (6) Open fires including candles, torches, and bonfires shall not be allowed except pursuant to prior approval and permit by the appropriate authorities.
- (7) Building exits shall never be blocked for any reason.
- (8) Parking shall be in designated areas only.
- (9) Every effort shall be made to provide vehicle and pedestrian traffic management in order to insure safe and orderly movement of vehicles and people.
- (10) All care shall be taken in the design, placement and construction of booths, displays, viewing stands, platforms, theater sets, temporary stages or any other structures to safeguard the safety of those building, using and disassembling such structures.
- (11) Decorations shall be fire resistant whenever possible, cover no more than 20 percent of the wall area and never be placed within close proximity to incendiary sources.
- (12) Care shall be taken at all times to avoid the creation of tripping hazards or if unavoidable to warn participants of obstacles.
- (13) No hazardous materials, including pyrotechnic devices, fireworks, explosives flammable materials or liquids, poisonous materials or plants, strong acids or caustics shall be brought onto the premises or used in any way while occupying the premises except with the approval prior to use by the fire marshal or other authority having jurisdiction.
- (14) No amusement rides or attractions, including but not limited to, trampolines of any type, enclosed or air supported structures of any type, climbing walls, climbing ropes, bow and arrow shooting activity or equipment or devices related thereto shall be brought onto the premises or used in any way while occupying the premises except with the express permission of school authorities and on proof of insurance by the user of the facility of at least \$1,000,000 per occurrence naming the school or school district and the authority as additional insureds. All such activities shall be operated and overseen by persons experienced and, if possible, certified to do so.
- (15) All users of school facilities shall give written notice to the school of any accident resulting in bodily injury or property damage to property of the school occurring on school premises or in any way connected with the use of the school premises within 24 hours of the accident. The notice shall include details of the time, place and circumstances of the accident and the names and addresses and phone numbers of any persons witnessing the accident.
- (16) If playground equipment is to be used, the user of the facility shall provide at least one adult supervisor for every fifteen (15) children.
- (17) The user of the facility shall provide the appropriate signage to inform participants of the safety rules. A list of emergency agencies and phone numbers shall also be posted.
- (18) Access to school facilities by the users of the facility shall be limited to those areas specified in the site use agreement.

H. All users of school facilities shall agree to provide prompt and thorough clean-up and removal or storage of all special structures within no more than 24 hours after the end of the event, but in no case later than the

beginning of the next school day or if school is out no later than prior to use of the area by school personnel. Users shall ensure that any furniture and equipment moved during the use of the facilities is replaced.
[6.50.17.8 NMAC - N, 7/1/2010]

HISTORY of 6.50.17 NMAC: [RESERVED]